

AMENDED IN SENATE AUGUST 28, 2001

AMENDED IN SENATE JUNE 25, 2001

AMENDED IN ASSEMBLY MARCH 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 533**

**Introduced by Assembly Member Cedillo**

February 21, 2001

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An act to add Section 1950.8 to the Civil Code, relating to landlord-tenant.

### LEGISLATIVE COUNSEL'S DIGEST

AB 533, as amended, Cedillo. Landlord-tenant: payments.

Existing law regulates the relationship between landlord and tenant, as specified.

This bill would provide, with respect to commercial leases and nonresidential tenancies, that it is unlawful for any person (1) to require, demand, or cause to make payable any payment of money, including, but not limited to, "key money," however denominated, *or the lessor's attorney's fees*, as a condition of initiating, continuing, or renewing a lease or rental agreement unless the amount of the payment is ~~ascertainable from the terms of~~ *stated in* the written lease or rental agreement. Any payment in violation of this provision would be subject to a civil penalty of 3 times the amount of actual damages proximately suffered by the person seeking to obtain the lease of the real property, and the person so damaged would be entitled to an award of costs, including reasonable attorney's fees, reasonably incurred in connection

with obtaining the civil penalty. The bill would also contain clarifying provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1950.8 is added to the Civil Code, to  
2 read:

3 1950.8. (a) This section applies only to commercial leases  
4 and nonresidential tenancies of real property.

5 (b) It shall be unlawful for any person to require, demand, or  
6 cause to make payable any payment of money, including, but not  
7 limited to, “key money,” however denominated, *or the lessor’s*  
8 *attorney’s fees reasonably incurred in preparing the lease or rental*  
9 *agreement*, as a condition of initiating, continuing, or renewing a  
10 lease or rental agreement, unless the amount of payment is  
11 ~~ascertainable from the terms of~~ *stated in* the written lease or rental  
12 agreement.

13 (c) Any person who requires, demands, or causes to make  
14 payable any payment in violation of subdivision (a), shall be  
15 subject to civil penalty of three times the amount of actual damages  
16 proximately suffered by the person seeking to obtain the lease or  
17 rental of real property, and the person so damaged shall be entitled  
18 to an award of costs, including reasonable attorney’s fees,  
19 reasonable incurred in connection with obtaining the civil penalty.

20 (d) Nothing in this section shall prohibit the advance payment  
21 of rent, if the amount and character of the payment are clearly  
22 ~~ascertainable from the terms of~~ *stated in* a written lease or rental  
23 agreement.

24 (e) Nothing in this section shall prohibit any person from  
25 charging a reasonable amount for the purpose of conducting  
26 reasonable business activity in connection with initiating,  
27 continuing, or renewing a lease or rental agreement for  
28 nonresidential real property, including, but not limited to,  
29 verifying creditworthiness or qualifications of any person seeking  
30 to initiate, continue, or renew a lease or rental agreement for any  
31 use other than residential use, ~~cleaning and reasonable attorney’s~~  
32 *or cleaning* fees, reasonably incurred in connection with the hiring  
33 of the real property.

1 (f) Nothing in this section shall prohibit a person from  
2 increasing a tenant's rent for nonresidential real property in order  
3 to recover building operating costs incurred on behalf of the  
4 tenant, if the right to the rent, the method of calculating the  
5 increase, and the period of time covered by the increase is  
6 ~~ascertainable from the terms of~~ *stated in* the lease or rental  
7 agreement.

